

## Message Text

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12  
ORIGIN EB-07

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P 272120Z JUL 76

FM SECSTATE WASHDC

TO AMEMBASSY BUCHAREST PRIORITY

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E.O. 11652: N/A

TAGS: EEWT, RO

SUBJECT: US-ROMANIAN LONG-TERM ECONOMIC COOPERATION  
AGREEMENT

REF: (A) BUCHAREST 3985 (B) BUCHAREST 3986  
(C) BUCHAREST 3987

1. RECAPING PROGRESS REPORTED REFTELS, WE UNDERSTAND  
THAT AGREEMENT HAS BEEN REACHED BETWEEN EMBASSY AND GOR ON  
ARTICLES II (2) AND III (2) AND AGREEMENT IN PRINCIPLE  
HAS BEEN REACHED ON ARTICLE IV SUBPARA 2. EMBASSY SHOULD  
CONFIRM AGREEMENT ON ARTICLE IV SUBPARA 2 WITH GOR.  
REMAINING ISSUES SHOULD BE TREATED AS FOLLOWS:

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2; ARTICLE I (3) - DEPARTMENT AGREES WITH EMBASSY WISH

TO AMEND PRESENT U.S. FORMULA FOR ARTICLE I (3) TO  
PIN DOWN EFFECTS OF SUSPENSION OR TERMINATION OF TRADE  
AGREEMENT. LANGUAGE CITED IN PARA 3 REF B SHOULD BE  
REVISED TO READ AS FOLLOWS: QUOTE EACH PARTY SHALL  
ACCORD TO IMPORTS OF ALL GOODS PRODUCED UNDER COOPERATION  
ARRANGEMENTS IN THE TERRITORY OF THE OTHER PARTY THE SAME  
TREATMENT AS IMPORTS OF OTHER LIKE GOODS PRODUCED THERE.  
THIS TREATMENT SHALL BE THAT PROVIDED IN THE RELEVANT  
PROVISIONS OF THE AGREEMENT ON TRADE RELATIONS OF  
APRIL 2, 1975, FOR THE PERIOD THEY REMAIN APPLICABLE,

OR AS OTHERWISE PROVIDED BY APPLICABLE LAWS AND REGULATIONS  
END QUOTE. WE BELIEVE REVISION OF FIRST SENTENCE IS  
NECESSARY TO AVOID POSSIBILITY THAT PHRASE "OR WHICH WILL  
BE PRODUCED" COULD BE CONSTRUED TO MEAN THAT GOODS  
PRODUCED UNDER COOPERATION ARRANGEMENTS IN THE FUTURE  
WILL RECEIVE, AT THAT FUTURE TIME, THE SAME TREATMENT AS  
LIKE GOODS PRODUCED OUTSIDE COOPERATION ARRANGEMENTS  
RECEIVE NOW, CHANGES IN LAWS AND REGULATIONS NOTWITH-  
STANDING. ROMANIANS MAY BE ASSURED THAT LIKE GOODS  
ENTERING US COMMERCE RECEIVE SAME TREATMENT REGARDLESS OF  
DATE OR CIRCUMSTANCES OF MANUFACTURE. SECOND SENTENCE  
IS REWORDED TO TAKE ACCOUNT OF ARTICLE 12 (2) (C) OF  
TRADE AGREEMENT, WHICH PERMITS PARTIES TO AGREE TO  
SUSPEND OR TERMINATE APPLICABILITY OF SELECTED PORTIONS  
OF THE AGREEMENT. FOR EXAMPLE, THE PARTIES COULD AGREE  
TO SUSPEND THE APPLICATION OF PROVISIONS RELATING TO  
MFN, WHILE THE AGREEMENT STILL REMAINS "IN FORCE."  
REWORDING ALSO TAKES INTO ACCOUNT POSSIBILITY THAT  
AGREEMENT IS TERMINATED BY ONE OF THE PARTIES OR SIMPLY  
EXPIRES.

3. ARTICLE II (3) - WE HAVE EXAMINED FORMULATIONS PRO-  
POSED IN BUCHAREST 3987 AND HAVE PROBLEMS WITH THE WORDS,  
"SHALL FACILITATE THE PROCESSING...." IN BOTH INSTANCES.  
THIS PHRASE IMPLIES THAT THE USG WILL MAKE THE BASIC  
EXPORT LICENSE PROCESS EASIER FOR ROMANIAN APPLICATIONS  
AND CARRIES WITH IT THE DANGER OF IMPLICATION OF A  
"ROMANIAN DIFFERENTIAL" REFERRED TO IN STATE 167346.  
BOTH THE GOR AND U.S. COMPANIES COULD CITE A COMMITMENT  
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TO "FACILITATE" OR MAKE THE PROCESSING EASIER IN AN  
EFFORT TO EXERT UNDUE PRESSURE ON AGENCIES CONSIDERING  
INDIVIDUAL LICENSE APPLICATIONS FOR ROMANIA. IT CALLS  
FOR A USG ACTION WHICH WE ARE RELUCTANT TO ENDORSE  
AND TAKES AWAY THE RIGHT OF INDIVIDUAL U.S. AGENCIES  
AND DEPARTMENTS TO STUDY AND ACT UPON AN APPLICATION IN  
A MANNER SUITED TO OTHER NEEDS AND INTERESTS.  
ACCORDINGLY, WE HAVE DEVELOPED A NEW FORMULATION WHICH

WE HOPE WILL BE ATTRACTIVE TO THE ROMANIANS:

"THE PARTIES RECOGNIZE THE SIGNIFICANCE OF EXPORTS TO THE SUCCESSFUL ACHIEVEMENT OF MUTUALLY ADVANTAGEOUS TRADE AND COOPERATION ACTIVITIES. IN LIGHT OF THE ABOVE, EACH PARTY SHALL PROCESS RELEVANT EXPORT LICENSE APPLICATIONS AS EXPEDITIOUSLY AS IS FEASIBLE UNDER ITS ESTABLISHED ADMINISTRATIVE PROCEDURES AND IN CONFORMITY WITH ITS LAWS, REGULATIONS, AND INTERNATIONAL UNDERTAKINGS."

THIS LANGUAGE WOULD APPEAR TO GIVE THE ROMANIANS WHAT THEY WANT -- AN EXPORT-CONTROL PROVISION WITH AN ACTION VERB. AT THE SAME TIME, IT DOES NOT IMPLY SPECIAL ACTION FOR ROMANIA OR OBLIGE US TO ACT MORE RAPIDLY THAN MAY BE POSSIBLE.

WE HAVE SEARCHED HARD FOR THE PROPER NON-COMMITAL LANGUAGE HERE AND BELIEVE THAT THIS IS AS STRONG A PROVISION AS WE CAN OFFER. IN PARTICULAR, WE DO NOT SEE THIS AS A PROVISION FROM WHICH WE CAN BEGIN TO NEGOTIATE AND SEEK RE-FORMULATIONS THAT WOULD ONLY LEAD BACK TO THE LANGUAGE OF BUCHAREST 3987.

EMBASSY IS INSTRUCTED TO TRANSMIT THIS NEW FORMULATION TO THE GOR CONSISTENT WITH THE PRECEDING PARAGRAPHS.

4. ANNEX I (1C) - WE PREFER NOT TO COMMENT ON THIS ISSUE UNTIL WE HAVE SEEN ROMANIAN COUNTERPROPOSAL.

5. THERE APPEARS TO BE ADEQUATE TIME TO RESOLVE REMAINING ISSUES WITHIN THE SCENARIO PUT FORWARD BY THE LIMITED OFFICIAL USE

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MFT. WE SUGGEST EMBASSY ATTEMPT TO MAKE STEADY PROGRESS, WHILE AVOIDING THE APPEARANCE OF BEING RUSHED, IN ORDER TO MAINTAIN GREATEST FLEXIBILITY. COMMENT ON TIMING OF SIGNING OF AGREEMENT SHOULD BE DEFERRED UNTIL IT BECOMES CLEAR WHAT COURSE CONGRESS TAKES ON EXTENSION OF THE EMIGRATION WAIVER.

6. LANGUAGE SERVICES COMMENTS ON COMPARISON OF ENGLISH AND ROMANIAN TEXTS FOLLOWS SEPTTEL. KISSINGER

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